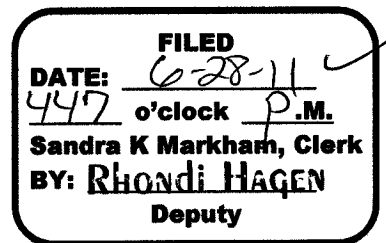


IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI



DIVISION PRO TEM B

SANDRA K MARKHAM, CLERK

HON. WARREN R. DARROW

BY: R. Hagen, Deputy Clerks

CASE NO. V1300CR201080049

DATE: June 28, 2011

TITLE:
STATE OF ARIZONA,

COUNSEL:
Yavapai County Attorney
By Sheila Polk
Bill Hughes
(Via OnBase)
(For Plaintiff)

(Plaintiff)

v.

JAMES ARTHUR RAY,

(Defendant)

Thomas K. Kelly
(Via Electronic Mail)
(For Defendant)
and
Luis Li/Brad Brian/Truc Do/Miriam Seifter
MUNGER TOLLES & OLSON LLP
(Via Electronic Mail)
(For Defendant *Pro Hac Vice*)

HEARING ON:	NATURE OF PROCEEDINGS	COURT REPORTER
JURY TRIAL / AGGRAVATED CIRCUMSTANCE PHASE		Mina Hunt

START TIME: 8:46 a.m.

APPEARANCES:

- Sheila Polk, Counsel for State
- Bill Hughes, Co-Counsel for State
- Detective Ross Diskin, Case Agent
- James Arthur Ray, Defendant
- Tom Kelly, Counsel for Defendant
- Luis Li, *Pro Hac Vice* Counsel for Defendant
- Miriam Seifter, *Pro Hac Vice* Counsel for Defendant

The Jury is not present.

The Court advises Counsel that Juror No. 2 was excused for hardship. The other alternates will return for this phase of trial.

Defense Counsel addresses the Court's gag order and moves for an order to show cause. The Court advises the gag order is still in effect. Counsel for State will advise the Court and Defense Counsel whether the individual subject to this issue is an employee of Ms. Polk's. Exhibit 1135 is marked.

The Court and Counsel review the jury instructions.

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At 10:55 a.m. the trial reconvenes with all previously appearing parties present. The Jury is not present.

The Court directs and **orders** the Clerk to retain the existing exhibit numbers of those trial exhibits submitted for this phase of the trial.

The Court and Counsel review and finalize jury instructions.

The Court advises Counsel that evidence can be admitted for the purpose it was admitted during the guilt phase of trial.

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At 11:36 a.m. the trial reconvenes with all previously appearing parties present. The Jury is not present.

During the recess, the Clerk is instructed by the Judge, through the Bailiff, to file the State's and Defense's proposed jury instructions.

Counsel pass the jury instructions, reserving objections.

Court and Counsel discuss scheduling.

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At 11:45 a.m. the trial reconvenes with all previously appearing parties and the Jury are present.

The Court addresses the Jury regarding alternates and the admonition.

The Court gives further jury instructions to the Jury.

The Jury is reminded of the admonition, excused for the noon recess and leaves the courtroom.

~~~Noon Recess~~~

At 1:29 p.m. the trial reconvenes with all previously appearing parties and the Jury present.

Counsel present opening statements.

Andrea Puckett is sworn and testifies.

The Court and Counsel conduct a sidebar discussion out of the presence of the Jury on the record.

Exhibits 1091 and 1090 are offered and admitted pursuant to stipulation of Counsel.

The witness is admonished and excused.

Virginia M. Brown is sworn and testifies.

The Jury is admonished, excused for a recess and leaves the courtroom.

Counsel for Defendant addresses the Court regarding Defendant's constitutional rights and moves for a mistrial. Argument ensues. The Court **denies** the motion for mistrial.

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At 3:14 p.m. the trial reconvenes with all previously appearing parties and the Jury present.

Alyssa Anne Gillespie is sworn and testifies.

The Court and Counsel conduct a sidebar discussion out of the presence of the Jury on the record.

Exhibits 1101, 1098, 1100 and 1117 are offered and admitted into evidence.

Exhibits 1130 and 1133 are offered. There being an objection by Defense Counsel, IT IS ORDERED overruling the objection and Exhibits 1130 and 1133 are admitted into evidence.

The Court and Counsel conduct a sidebar discussion out of the presence of the Jury on the record.

The witness is excused.

The Court and Counsel conduct a sidebar discussion out of the presence of the Jury on the record.

The Jury is admonished, excused for the day and leaves the courtroom.

Counsel for Defendant makes Rule 20 motion regarding aggravating circumstances 1 and 3. Oral argument ensues.

**IT IS ORDERED denies** the Rule 20 motion.

Court is adjourned for the day.

**END TIME: 4:47 p.m.**

**THEREAFTER, off the record**, the Court clarifies for the Clerk that Exhibit 1135 is marked and admitted for purposes of the oral argument regarding the gag order only and is not an exhibit for purposes of the Aggravated Circumstances phase of trial.

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)  
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)  
Stone & Magnanini, Co-Counsel Brown Family (e)  
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)  
Step toe & Johnson, Counsel for KPNX Broadcasting Company, TruTV and In Session (e)  
Perkins, Coie, Brown & Bain, Counsel KTVK-TV (e)  
Division PTB (e)  
Victim Services (e)  
Court Administration  
Customer Service Supervisor, Camp Verde Superior Court Building  
Exhibit Clerk